

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-02-0020
)
Heartland Citrus, Inc.,)
)
)
Respondent) Decision Without Hearing
by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (hereinafter referred to as the "Act"), instituted by a Complaint filed on July 12, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period December 5, 1999, through July 3, 2000, Respondent Heartland Citrus, Inc. (hereinafter "Respondent") failed to make full payment promptly to five sellers of the agreed purchase prices in the total amount of \$119,031.56 for 110 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce, and failed to remit net proceeds to four growers, in the total amount of \$86,882.75, for 101 lots of perishable agricultural commodities consigned to and sold by Respondent in interstate commerce.

A copy of the Complaint was mailed to Respondent by certified mail at its last known principal place of business on July 12, 2002, and was returned as refused to the office of the Hearing Clerk on August 19, 2002. A copy of the Complaint was re-mailed to Respondent by regular mail on September 10, 2002 pursuant to Section 1.147(c) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §1.130 *et seq.*, hereinafter "Rules of Practice").

Respondent has not answered the Complaint. The time for filing an Answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further procedure pursuant to Section 1.139 of the Rules of Practice.

Finding of Fact

1. Respondent is a corporation organized and existing in the state of Florida. Its business address is 712 Gooch Road, Fort Meade, Florida 33841. Its mailing address is P.O. Box 10, Fort Meade, Florida 33841.

2. At all times material herein, Respondent was licensed under the PACA. License number 960127 was issued to Respondent on October 18, 1995. This license terminated on October 18, 2000, pursuant to Section 4(a) of the PACA (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth in paragraph III of the Complaint, Respondent, during the period January 2000 through June 2000, failed to make full payment promptly to five sellers of the agreed purchase prices in the total amount of \$119,031.56 for 110 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate commerce.

5. As set forth in paragraph IV of the Complaint, Respondent, during the period November 1999 through June 2000, failed to remit net proceeds to four growers, in the total amount of \$86,882.75, for 101 lots of perishable agricultural commodities consigned to and sold by Respondent in interstate commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the 110 transactions set forth in Finding of Fact No. 4 above, and failure to remit net proceeds to growers with respect to the 101 transactions set forth in Finding of Fact No. 5 above constitute wilful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

Respondent has committed wilful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances of the violations shall be published.

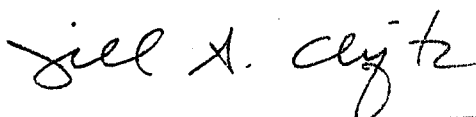
This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 20 day of December, 2002



Administrative Law Judge